IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 13311 of 2005

Between:

Mopuru Vellampalli Village, Water and Sanitation Committee, A Society Bearing Registration No. Registered under A.P. Societies Registration Act, rep. by its Secretary, M. Munneendra Rao.

..... PETITIONER

AND

1 Nellore District Water and Sanitation Committee, rep. by its Executive Secretary, Superintending Engineer, Rural Water Supply Scheme, Nellore District.
2 The District Collector, Nellore and Chairman, Nellore District Water & Sanitation Committee, Nellore.
3 N. Rajya Lakshmi, w/o N. Janardhan Reddy, M.L.A & Minister for Primary Education, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad.
4 The Secretary, Mopuru Vellampalli Village,Dakkali Mandal, Nellore District.
5 The Mandal Parishad Developmentg Officer, Dakkali Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in suspending the Executive of the petitioner's society by impugned proceedings Rc.No. A/54/SRPP/04 dated 20-12-2004 and consequential order dated 24-4-2005 are totally irregular, arbitrary and against the principles of natural and without authorty of law and set aside the same and further direct the respondents to release the 2nd and 3rd instalments of contract amount of Rs. 24 lakhs to the Petitioner's society to enable them to execute contract dated 28-5-2003 to complete the execution of the 2nd and 3rd phases of contract ie., to provide Drinking Water and Sanitation to the Mopuru Vellampalli Village without political influence and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.Y.VENKATESWARLU

Counsel for the Respondent Nos.1,2,4 & 5: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORAL ORDER

The writ petition is filed by the petitioner-Mopuru Vellampalli Village Water and Sanitation Committee seeking to declare the action of the respondents in suspending the Executive of the petitioner-society by proceedings Rc.No.A/54/SRPP/04 dated 20-12-2004 and consequential order dated 24-04-2005 are irregular, arbitrary and against the principles of natural justice and to set aside the same.

Heard the learned counsel appearing for the petitioner and the Government Pleader appearing for the respondents.

The main grievance of the petitioner is that the 1st respondent entrusted the execution of Mopuru Vellamapalli Village Water and Sanitation Scheme to the petitioner-society through its contract dated 28-05-2003 and as per the said contract the petitioner has to be completed the assignment of providing drinking water and sanitation to Mopuru Vellampalli Village within a period of six months from the date of contract. While so, the 1st respondent did not discharge its obligation and they did not render any assistance to the petitioner's society. On 01-03-2004 the Deputy Executive Engineer, R.W.S.Venkatagiri issued a notice to the petitioner calling upon the petitioner to complete the work and produce account of expenditure incurred by the petitioner. While the matter stood thus, by the order dated 20-12-2004 in Rc.No.A/54/SRPP/04, impugned in this writ petition, the respondents suspended the petitioner-soceity on the ground of misappropriation of funds released and, therefore the 4th respondent was kept in-charge to look out the scheme. Immediately the petitioner-society represented the matter to the 2nd respondent-District Collector on 28-12-2004 but no orders have been passed on the said representation. Hence, the petitioner prays to the Court to declare the action of the respondents as arbitrary and set aside the same.

As could be seen from the material available on record, that there was an agreement in between the petitioner-society and 1st respondent. According to the agreement, Para 43 clearly shows that in case of any dispute between the VWSC and DWSM, the matter will be referred to the sole arbitration of the Chairman, State Water and

Sanitation mission (SWSM) or Chairman of the State Level Institutional Set-up in the state, who may arbitrate himself or may nominate a person in his place, in his behalf who will give his AWARD and the same shall be binding upon all the parties. When there was an arbitration clause in the agreement, the petitioner should have invoked the same for appointment of arbitrator instead of approaching this Court. Moreover the present writ petition is filed after lapse of one year of passing of impugned order.

Under the above said circumstances, I do not find any reason to interfere with the order impugned in this writ petition and thus, this writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. In the circumstances, no order as to costs.

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ELIPE DHARMA RAO,J

22ND JUNE D2005

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To

1 The Executive Secretary, Nellore District Water and Sanitation Committee, Rural Water Supply Scheme,Nellore District.
2 The District Collector, Nellore and Chairman, Nellore District Water & Sanitation Committee, Nellore

3 The Secretary, Mopuru Vellampalli Village,Dakkali Mandal, Nellore District.
5 The Mandal Parishad Developmentg Officer, Dakkali Mandal, Nellore District.

6. Two CCS to G.P for Panchayatraj and Rural Development, High Court Buildings, Hyderabad(OUT)

7. Two C.D.Copies.